



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
<http://www.epa.gov/region08>

Ref: 8ENF-T

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
No. 7003-1010-0002-6389-3579

MAR 31 2005

Daniel S. Jamroz, Registered Agent
Reliance Truck/Auto Inc.
2180 W. Yale
Englewood, CO 80110

Re: Compliance Order and Administrative
Complaint under the Clean Air Act, 42
U.S.C. §§ 7413(a) and 7413(d)

Dear Mr. Jamroz:

Enclosed are a Compliance Order ("Order") and an Administrative Complaint and Notice of Opportunity for Hearing ("Complaint"), each of which the U.S. Environmental Protection Agency ("EPA") is issuing to Reliance Truck / Auto Inc. ("Reliance").

The Order alleges that Reliance has violated the provisions of the Clean Air Act, 42 U.S.C. § 7401 *et seq.* (the "CAA"), and EPA's regulations that pertain to servicing motor vehicle air conditioners. The Order requires that Reliance comply with all requirements of Section 609 of the CAA, 42 U.S.C. § 7671h, and 40 C.F.R. part 82, subpart B. EPA is authorized to issue the Order under section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B).

In accordance with section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), the Order will not take effect until Reliance has had an opportunity to confer with EPA concerning the findings set forth in the Order. As stated in the Order, the request for such a conference must be made no later than thirty (30) calendar days from the date of Reliance's receipt of the Order. A request for a conference must follow the procedures set forth in the Order.

Like the Order, the Complaint alleges that Reliance has violated the CAA and EPA's regulations. The Complaint proposes that EPA assess an administrative civil penalty of \$33,576 for these violations. The EPA is authorized to assess administrative civil penalties under section 113(d) of the CAA, 42 U.S.C. § 7413(d).



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Reliance has the right to a hearing to contest the allegations in the Complaint and/or the proposed penalty. We have enclosed a copy of 40 C.F.R. part 22, which identifies the procedures EPA follows in penalty assessments of this type. Please note the requirements for an answer to the Complaint in 40 C.F.R. part 22.15(b).

If Reliance wishes to contest any allegation in the Complaint and/or the penalty proposed in the Complaint, Reliance must file an answer within thirty days of receipt of the enclosed Complaint with the EPA Region 8's Regional Hearing Clerk at the following address:

Regional Hearing Clerk (8RC)
U.S. EPA Region 8
999 18th St., Suite 300
Denver, CO 80202-2466

If Reliance does not file an answer by the applicable deadline, it may be held in default. A default judgment may impose the full penalty proposed in the Complaint.

EPA encourages settlement of penalty proceedings at any time prior to a formal hearing, if the settlement is consistent with the provisions and objectives of the CAA and applicable regulations. If a mutually satisfactory settlement can be reached, it will be formalized in a Consent Agreement. Upon final approval of the Consent Agreement by the EPA's Presiding Officer, Reliance would be bound by the terms of the Consent Agreement and would waive its right to a hearing on, and any judicial appeal of, the agreed-upon civil administrative penalty.

Reliance has the right to be represented by an attorney at any stage of the proceedings, including any informal settlement discussion with EPA, but this is not required.

Please note that arranging for a settlement conference does not relieve Reliance of the need to file a timely answer to the enclosed Complaint.

Please be advised that the issuance of this Order and this Complaint does not preclude the initiation of civil or criminal actions in U.S. District Court for the violations cited in the Order, for any other violations that Reliance may have committed prior to or may commit after the issuance of the enclosed Order, or for any failure to comply with the terms of the Order itself.

We also have enclosed an information sheet entitled "U.S. EPA Small Business Resources," which notifies small businesses of their right under the Small Business Regulatory Enforcement and Fairness Act (SBREFA) to comment on regulatory enforcement activities and provides information on compliance assistance. EPA's dissemination of this information sheet does not necessarily mean that we have determined that your business is a small entity as defined by SBREFA.

If you wish to discuss settlement or have any questions, the most knowledgeable persons on my staff for technical and legal issues, respectively, are Joshua Rickard, Environmental Engineer, who can be reached at (303) 312-6469, and Peggy Livingston, Enforcement Attorney, who can be reached at (303) 312-6858.

Sincerely,



Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

cc: Tina Artemis, Regional Hearing Clerk (with enclosures)
Dean Neely, CFC Program, CDPHE (with enclosures)

2005 APR -4 AM 11:22

FILED
EPA REGION VIII
ORDER
HEARING CLERK

COMPLIANCE ORDER
[42 U.S.C. § 7413(a)(3)(B)]

Docket No. CAA-08-2005-0005

Respondent.

STATUTORY AUTHORITY

FINDINGS

2. The Respondent is Reliance Truck / Auto Inc. ("Reliance").

3. The Respondent is a corporation organized under the laws of the State of Colorado.

4. The Respondent's business consists primarily of repairing and/or servicing motor vehicles for payment, at one or more facilities, including a facility located at 2180 W. Yale, Englewood, Colorado, 80110. Unless otherwise noted, any references in this order to the Respondent's facility shall be to the one whose address is given in the previous sentence.

5. The Respondent is a "person" as that term is defined in section 302(e) of the CAA, 42 U.S.C. § 7602(e).

Statutory/Regulatory Background

6. This case involves Subchapter VI of the CAA, 42 U.S.C. §§ 7671 through 7671q. Subchapter VI is intended to help protect stratospheric ozone.

7. Section 609(c) of the CAA, 42 U.S.C. § 7671h(c), prohibits any person who repairs or services motor vehicles for consideration (i.e., for payment) from servicing any motor vehicle air conditioner without properly using approved refrigerant recycling equipment.

8. Section 609(d) of the CAA, 42 U.S.C. § 7671h(d), requires any person who services motor vehicle air conditions for consideration to provide a certification to the EPA Administrator. The certification is to state

that such person has acquired, and is properly using, approved refrigerant recycling equipment in service on motor vehicle air conditioners involving refrigerant and that each individual authorized by such person to perform such service is properly trained and certified.

The certification was to have been filed by November 15, 1992.¹

9. As required by Section 609(a) of the CAA, 42 U.S.C. § 7617h(a), the EPA has promulgated a rule codified in 40 C.F.R. part 82, subpart B, entitled "Servicing of Motor Vehicle Air Conditioners."

10. One of the requirements of subpart B is 40 C.F.R. § 82.34(a)(1), which provides, in pertinent part:

No person repairing or servicing MVACs [motor vehicle air conditioners] for consideration . . . may perform any service involving the refrigerant for such MVAC . . . [w]ithout properly using equipment approved pursuant to [40 C.F.R.] § 82.36

11. R-134a and R-12 are each a "refrigerant" as that term is defined in CAA § 609(b)(1), 42 U.S.C. § 7671h(b)(1), and 40 C.F.R. § 82.32(f).

12. Another requirement of subpart B is 40 C.F.R. § 82.42(a), which provides, in pertinent part:

(1) No later than January 1, 1993, any person repairing or servicing motor vehicle air conditioners for consideration shall certify to the Administrator that such person has acquired, and is properly using, approved equipment and that each individual authorized to use the equipment is properly trained and certified

¹Any facility that certified as of November 15, 1992 that it serviced fewer than 100 motor vehicle air conditioners in 1991 was to have submitted the quoted certification by January 1, 1993.

Inspections and Investigations

13. On August 2, 2004, Colorado Department of Public Health and Environment (CDPHE) inspector Dan Neely visited the Respondent's motor vehicle repair facility.

14. During this inspection, Mr. Neely discovered that the Respondent was using R-134a without equipment approved under 40 C.F.R. § 82.36.

15. On August 13, 2004, EPA inspectors Cynthia Reynolds and Joshua Rickard visited the Respondent's facility and observed R-134a for which the Respondent had no recycle recovery equipment.

16. The EPA inspectors then requested and received invoices for MVAC services that the Respondent had performed in July and August of 2003, April through June of 2004, and August of 2004.

17. The invoices that the Respondent provided indicated that on eleven occasions the Respondent had performed MVAC repair or service work involving R-134a and on one occasion the Respondent had performed MVAC repair or service work involving R-12.

18. The Respondent did not use recycle recovery equipment for any of the MVAC repair or service work described in any of the invoices Respondent provided.

19. A summary of the pertinent invoices, dates of service, and vehicles follows:

Date of Service	Invoice No.	Vehicle (Year, Make, Model)
6/03/2003	37685	82 Jeep, Cherokee
7/15/2003	37617	97 Hummer, H1
7/07/2003	37856	82 Ford, F-150
7/17/2003	37937	95 Dodge, Caravan

7/24/2003	379XX	93 Ford, E350
4/09/2004	38976	03 Ford, Focus
4/16/2004	39061	84 Lincoln, Towncar
5/06/2004	39133	90 Motor Ho
6/15/2004	39243	97 Chevy, S-10
5/28/2004	39259	01 Dodge, Ram
6/08/2004	39295	98 Internat, 9400
6/09/2004	39297	00 Ford, F350S

Findings of Violation

20. On each of the instances cited in the table set forth above, the Respondent repaired or serviced a motor vehicle air conditioning system with a refrigerant without properly using equipment approved pursuant to 40 C.F.R. § 82.36, in violation of 40 C.F.R. § 82.34(a)(1) and CAA § 609(c), 42 U.S.C. § 7671h(c).

21. The Respondent has failed to certify to the EPA Administrator that it has acquired and is properly using approved equipment for repairing or servicing motor vehicle air conditioners, in violation of 40 C.F.R. § 82.42(a) and CAA § 609(d), 42 U.S.C. § 7671h(d).

22. The Respondent has failed to certify to the EPA Administrator that each individual it has authorized to use equipment for repairing or servicing motor vehicle air conditioners is properly trained and certified, in violation of 40 C.F.R. § 82.42(a) and CAA § 609(d), 42 U.S.C. § 7671h(d).

ORDER

23. Based upon the foregoing FINDINGS, and pursuant to the authority vested in the Administrator of the EPA by section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B), as properly delegated to the Assistant Regional Administrator of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8, it is hereby ORDERED:

24. Effective immediately, the Respondent shall not repair or service any motor vehicle air conditioner without using equipment approved pursuant to 40 C.F.R. § 82.34.

25. No later than thirty days after the effective date of this Order, the Respondent shall file certifications with the EPA that (1) the Respondent has acquired and is properly using approved refrigerant recycling equipment in service on motor vehicle air conditioners involving refrigerant and (2) each individual authorized by the Respondent to perform such service is properly trained and certified. The Respondent shall send these certifications to:

Joshua Rickard, 8ENF-AT
U.S. EPA Region 8
999 18th St., Suite 300
Denver, CO 80202

26. Effective immediately, the Respondent shall comply with all requirements of section 609 of the CAA, 42 U.S.C. §§ 7671h, and 40 C.F.R. part 82, subpart B.

ENFORCEMENT

27. Issuance of this Order does not preclude any other action by EPA concerning the violations that are the subject of this Order, or any other past or future violations of the CAA by Respondent, under any provision of law including, but not limited to:

a. an administrative penalty complaint pursuant to section 113(d) of the CAA, 42 U.S.C. § 7413(d), for penalties of not more than \$27,500 per day of violation or, for violations occurring after March 15, 2004, \$32,500 per day of violation; or

b. a civil action pursuant to section 113(b) of the CAA, 42 U.S.C. § 7413(b), for injunctive relief, and/or civil penalties of not more than \$27,500 per day of violation or, for violations occurring after March 15, 2004, \$32,500 per day of violation.

28. Pursuant to section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3), failure to comply with this Order may lead to a civil action to obtain compliance or an action for civil or criminal penalties.

OPPORTUNITY FOR CONFERENCE

29. In accordance with section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), EPA hereby offers the Respondent an opportunity for a conference to discuss this Order. The request for such a conference must be made no later than thirty (30) calendar days from the date Respondent receives this Order. If Respondent wishes to make arrangements for a conference, it should contact:

Margaret J. (Peggy) Livingston
Enforcement Attorney (8ENF-L)
U.S. EPA, Region 8
999 18th Street, Suite 300
Denver, Colorado 80202-2466
Telephone: (303) 312-6858

By offering the opportunity for a conference, EPA does not waive or limit its right to any remedy available under the CAA.

EFFECTIVE DATE

30. This Order shall become effective thirty (30) calendar days after Respondent's receipt of the Order, unless Respondent requests an opportunity to confer with EPA, in which case the Order shall become effective on the third business day after the conference unless EPA issues a modification to the Order.

Date: 3/31/2005



Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance,
and Environmental Justice
U.S. EPA, Region 8
999 18th Street, Suite 300
Denver, Colorado 80202-2466

CERTIFICATE OF SERVICE

I certify that on the date noted below, I sent by certified mail, return receipt requested, a copy of the foregoing COMPLIANCE ORDER to:

Dan Jamroz, Owner
Reliance Truck / Auto, Inc.
2180 W. Yale
Englewood, CO 80110

Certified Return Receipt No: 7003-1010-0002-6389-3579

Date:

April 4, 2005

Judith M. McTernan
Judith M. McTernan